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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,891	08/05/2005	Lars Zander	C 2312 PCT/US	7246

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COGNIS CORPORATION
PATENT DEPARTMENT
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EXAMINER	
GEMBEH, SHIRLEY V	

ART UNIT	PAPER NUMBER
1614	

DATE MAILED: 09/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/517,891	ZANDER ET AL.	
	Examiner	Art Unit	
	Shirley V. Gembeh	1614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 July 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *10-29* is/are pending in the application.

4a) Of the above claim(s) *21-29* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *10-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *12/13/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

The response filed **July 13, 2006** presents remarks and arguments to the office action mailed **June 14, 2006**.

Applicant's election with traverse of Applicant timely traversed the restriction (election) requirement in the reply filed. The traversal is on the ground(s) that the claims are drawn to only to one invention, and (1) a product and process specially adapted for manufacture of said product or (2) a product and process of use of said product and that they have unity of invention. The requirement is still deemed proper and is therefore made **FINAL** because The inventions listed as Groups I do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: Group I is drawn to a composition, Saebo et al. discloses the composition and is being anticipated See WO 99/47135 A1. In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. If and when the claims are found allowable as stated in the office action on record and repeated above the process claims will be rejoined with the product claims.

Applicants' election of Group I, claims 10-20 is **FINAL**.

Correction to Restriction/Election.

Applicant elected group I claims 10-21. In the original restriction of record the Group I contains claims 10-20.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 10-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Saebo et al. US 6,015,883.

Saebo et al. teach with regards to claim 10 a composition (see col. 4, lines 60) comprising atleast one of cis and trans isomers 8, 10-octadecadienol is taught (see col. 8, lines 60+) (emphasis added, all the groups from which the selection is to be made is present in the teaching). Also the reference teaches the composition comprises 9-cis, 11-trans-octadecandienol (see col. 8 lines 60+).

With regards to claims 14-17 the composition further comprises conjugated linoleic acid or esters and mixtures thereof is anticipated (see col. 10, lines 37+) containing less than 1% thus anywhere from 0.0001 to 0.9% is anticipated (see col. 3, lines 38+) as in claims 12 and 13.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 10-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saebo et al. US 6,015,883 in view of Remmereit US 6,019,990.

Saebo et al. teach with regards to claim 10 a composition (see col. 4, lines 60) comprising atleast one of cis and trans isomers 8, 10-octadecadienol is taught (see col. 8, lines 60+) (emphasis added, all the groups from which the selection is to be made are present in the teaching). Also, the reference teaches the composition comprises 9-cis, 11-trans-octadecandienol (see col. 8 lines 60+).

With regards to claims 14-17 the composition further comprises conjugated linoleic acid or esters and mixtures thereof is anticipated (see col. 10, lines 37+) containing less than 1% thus anywhere from 0.0001 to 0.9% is obvious (see col. 3, lines 38+) as in claims 12 and 13. Saebo et al. did not expressly teach the addition of triglyceride into the composition, however, incorporated seed oil into the composition,

since these triglycerides naturally exist in seed oil, thus making the incorporation obvious to one of ordinary skill in the art (see col. 4 lines 10 +) as in claim 18. Remmereit teaches with regards to claims 10-12, a composition comprising 10,12-linoleic acid in combination with a triglyceride wherein atleast on R represents a conjugated linoleic acid residue is taught as glycerol monosterate wherein one of R is C-8-C-26 (see col. 4 lines 50+) as in claim18. (In a simple triglyceride all three fatty-acid groups are identical. In a mixed triglyceride, two or even three different fatty-acid groups are present; most fats and oils contain mixed triglycerides-thus obvious for one R to be a conjugated linoleic acid).

The reference also teaches the incorporation of UV-product as a filter is taught (see col. 4 lines 57+) as in claims 19 and 20.

Although the Saebo et al. reference did not teach the incorporation of a a UV filter in to composition, one of ordinary skill in the art would have known to add a UV-filter compound to a skin product inorder to minimize the damage causes by the sun especially in cases such as skin melanomas.

Therefore one of ordinary skill in the art would have been motivated to add a sun-screen protection to creams, lotion or any application of medication to the skin that will be expose to sun-rays to minimize penetration of the carcinogenic rays of the sun.

Also, one would be motivated to combine the cited prior art, because the references teaches so and one of skill would have expected a reasonable success in doing so based on the combined teachings.

Thus, the claimed invention was prima facia obvious to make and use at the time it was made.

No claim is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shirley V. Gembeh whose telephone number is 571-272-8504. The examiner can normally be reached on 8:30 -5:00, Monday- Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ardin Marschel can be reached on 571-272-0718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ardin H. Marschel 9/18/06

ARDIN H. MARSCHEL
SUPERVISORY PATENT EXAMINER

SVG
9/11/06